



## FIGHTING OVER THE DIRT: HOW A MEDIATOR CAN HELP

By Margo Keller

Ana bought a new house in a charming neighborhood in North Admiral. It's a cute little Craftsman with a great driveway and a separate garage still only 15 minutes from downtown Seattle. Since October, she has been in homeowner's nirvana.

But the other day someone parked in front of her house. For the whole day. What the heck, she thought, why don't they find a parking lot? She felt her peaceful self swell with pique. The next day she arrived home after dark and could barely get into her garage because cars were parked bumper to bumper up the street and someone's van had nosed into "her" driveway.

She managed to get in after several cuts (and some bad words) and walked into the house with a steam of self righteous anger. "I paid for that driveway," she thought, "I deserve my access."

"Have them towed," a friend said, "what jerks."

"Leave them a nasty note," another suggested, "that will get the message across."

Fortunately Ana didn't choose either option and instead left a nice note suggesting the owner hadn't noticed how the front of the van was in the driveway and that it had been tough to get in. About an hour later a woman knocked on her door.

"My gosh, I am so sorry," she said, "but I'm wondering if you know that our property line includes part of your driveway?"

WHAT??!!? ...and that's how the property dispute begins.

### **Acknowledge the Fear**

Putting the law aside for the moment, most



property disputes trigger our deep fear that our property can be taken away. The one place we feel safe is in our homes and if someone encroaches on that territory we feel afraid and out of control. So, as mediators we must acknowledge this fear, even if many folks do not want to discuss it so directly. *One thing you can do is emphasize that mediation allows them to control the outcome.*

### **Identify Shared Interests**

Once you have identified those fundamental feelings, it is important to work on identifying shared interests or at least, dovetailing interests. They always exist, but it might take some work to pull them out. Shared interests may be anything from a desire for uniformity in fencing to the need for access to an alleyway. Dovetailing interests include items like: you need a driveway and I need some money.

*One way I draw these out is to keep the parties in separate rooms and ask them to write down three things they think the other side wants.* Often they look at me blankly because they have worked up such a head of steam about what they want and their outrage. Thinking of what the other side wants forces the parties to quit demonizing the other and to consider some creative options. Occasionally the light bulb comes on, "Hey she just wants to get in her driveway from 6-7 pm when she gets home from work and the streets are crowded--otherwise it's not an issue. I wouldn't mind a use agreement."

### **Identify Creative Options**

From identification of shared interests come

creative options for resolving the dispute. Help the parties consider more than one option. Most people need to feel like disputes have been resolved in a way that is fair, and in fact, studies show more people care about “fairness” than winning. So, work on resolutions where the parties are working together on the result: 1) jointly stipulate to a surveyor to determine where the property line is, 2) jointly agree to an appraiser who will tell you what that strip you want is worth, or 3) stipulate to binding arbitration in the event no agreement is reached. As mediators your goal is to help people reach a sense of “rough justice” in an efficient and wise manner.

### **Acknowledge What you Cannot Do**

Most real estate lawyers will tell you that boundary disputes and adverse possession claims are a complex area of the law. As a mediator you may be able to help the parties reach an agreement in principle but you cannot help them draft the legal documents necessary to accomplish the settlement. **Perhaps the parties can stipulate to one lawyer who will draft the documents and make sure any necessary legal descriptions, tax statements or county approvals are effectuated.** I teach Dispute Resolution at Seattle University School of Law and I am always impressed by the fact that the law students are very good at simulating resolution of the dispute but have a more difficult time getting the agreement into a good written document. Help your parties agree to a process for getting the settlement effectuated and you will have served them well to the end.

*Margo Keller is a Mediator and Arbitrator with Washington Arbitration and Mediation Service (WAMS) and an Adjunct Professor at the Seattle University School of Law. She will be presenting at our next In-Service on January 20 at 6:30 in Room 1E-120.*

## **Tell Your Friends!**

BNMP's next **Basic Mediation Training** will be held in **March 2009** at Bellevue City Hall.

Space is limited, so early registration is recommended. Please call **425-452-4091** or email **mediation\_info@bellevuewa.gov** for more information.

## **Congratulations**

to our  
President's Volunteer Service  
Award Recipients!

Two of BNMP's volunteers, Jack Mahler and Rhonda Younker, received the bronze President's Volunteer Service Award at a ceremony held at City Hall on December 1st, 2008.

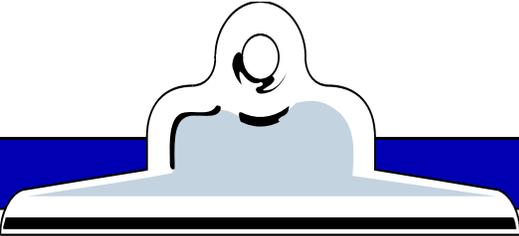


Jack and Elaine Mahler attempt to find “balance.”  
Photo by Jack Mahler.

## **Volunteer Recognition Party You are Invited!**

The 2009 Volunteer Recognition Night is just around the corner. Come and enjoy a light, buffet-style dinner. Or just drop in and mingle with other volunteers you may not have met yet. It's your chance to enjoy live music and a program in which we will appreciate BNMP's distinguished volunteers. There will be cake for dessert. The party will be held on **Tuesday, February 10<sup>th</sup>, 5:30 pm - 8:00 pm**, at **Mercer Slough Environmental Education Center**. The program starts at 6:00. Please RSVP by calling (425) 452-4091, or by sending an email to Gwen at [GJones@bellevuewa.gov](mailto:GJones@bellevuewa.gov)  
See you there!





## Parent—Teen Update

By  
Cathy Goldman

I hope you all had a happy holiday season. I know the weather was challenging with all the snow. It was also very beautiful with all that snow on the ground.



We continue to help families create more peace and harmony in the home. I will be busy in January doing more outreach in hopes of reaching more families in our community.

I am very excited about our January 13<sup>th</sup> in-service training from 6 to 8pm at Bellevue City Hall. Ilana Vayman and I will facilitate a dialogue between teens and adults. Our hope is to increase intergenerational communication and understanding and to gain insights into our clients' perspectives. We will also look at the judgments we form in and out of the mediation room. Please plan to attend this powerful event! We need both teens and adults to attend to make this a success! Also mark your calendar for our February 10<sup>th</sup> Volunteer Appreciation Night! This is our opportunity to let you know how important you are to our organization!

## **BNMP Training Opportunities For Mediators and Conciliators**

### *Neighborhood In-Service:*

#### **Property Boundary Disputes**

Margo Keller, Attorney at Law

Tues. Jan 20th, from 6-8 PM in Room 1E-120

6:00 refreshments, 6:30-8:00 program

### *Parent-Teen In-Service:*

#### **Intergenerational Communication:**

#### **An Insight into Parent and Teen Perspectives**

Cathy Goldman and Ilana Vayman

Tues. Jan. 13th, from 6-8 PM in Room 1E-112

### *Book Group:*

Wed., Jan. 14th at 6:00 PM at City Hall. We will be reading Craig Storti's *Cross Cultural Dialogues: 74 Brief Encounters with Cultural Difference*.

### *Con/Med Consultation Group:*

Join us to discuss your current conciliations/mediations or questions. Great networking and learning opportunity. Open to all volunteers.

Wed. Feb. 18th at 5:30 PM in Room 1E-118.

### *Save the Date!*

#### **Volunteer Recognition Party**

Tues. Feb.10 at 5:30 PM at

**Mercer Slough Environmental Education Center.**

Recognition, Food, Fun ...

### *Training:*

#### **Basic Mediation Training (40 hours)**

March 2009 at Bellevue City Hall

### **Program Staff:**

Program Co-Manager:	Cheryl Cohen	-	452-5222
Program Co-Manager:	Andrew Kidde	-	452-5288
Program Assistant	Gwen Jones	-	452-2897
Parent-Teen Coordinator:	Cathy Goldman	-	452-4091

City of Bellevue website: <http://www.bellevuewa.gov>  
(Look for the Mediation Program under "Neighborhood Information")

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*Volunteer Profile:*

**Katia Nepom**



Katia was born in Moscow and moved to San Francisco at age ten. She later moved to Washington State where she attends Bellevue High School. Fluent in Russian, Katia enjoys studying languages including French and Chinese. She began working with the Parent-Teen Mediation Program after her sophomore year because she was already interested in communication and wanted to learn about conflict resolution. Katia has found that this information is very useful not just in the mediation room, but also in family life, with friends, and she imagines that it will be helpful in business in the future. She is currently applying to colleges and will probably study computer science and engineering, as well as foreign language. In her spare time, Katia is an officer with the Bellevue High Math Club. She also loves all kinds of dance, and currently trains in ballroom dance at a studio in Bellevue.



City of Bellevue Department of Planning and Community Development  
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